

Additional Space (continued)

square-feet. Please see attached pictures.

We wish it to be known that we have been neighbors and homeowners at 806 Winflo for more than 12 years, and presently own the majority of the building's units. Concurrent with the approved project at 804, we intend to make additional and substantial improvements at 806 Winflo within the next year. These include a newly paved parking lot, new siding, extensive landscaping and other beautifications, in accordance with OWANA and City of Austin guidelines.

In closing, we also wish it to be known that we intend to remain active and present in the neighborhood. We have always occupied a unit at 806 Winflo. The tenants that live in our other units are our neighbors; we choose them with care and experience little turnover in our building. We will reside at 804 Winflo upon its completion and will continue to have the same care and concern for them as well as for our other neighbors on Old West Austin.

Sincerely,

Patti and Greg Schaub

SAVE

Mike McHone
Real Estate

March 27, 2017

Board of Adjustments
City of Austin
c/o Leane Heldenfels, City Staff
505 Barton Springs Rd.
Austin, TX 78704

RE: 804 Winflo C15-2017-0008
SP 2016-032GC

Dear Members of the Board,

The variance requested is for Lot 6, Parkview (subdivision) recorded May, 1949. (Exhibit 1) The City of Austin passed its first subdivision ordinance in March of 1946. The current land development process in Austin is zoning, subdivision, site plan and then building permit, in that order. (Exhibit 2) All lots in this subdivision were in compliance with the zoning ordinance when it was passed. The zoning ordinance in effect at that time was Chapter 45. Lot #6 (804 Winflo) is about 7,354 sq. ft. and was zoned B-2nd height and area. Page 83 of Chapter 45 permits a triplex on lots zoned B-2nd height and area (H&A) (Exhibit 3)

Subsequent City Councils adopted new zoning codes. In 1984, the current code was adopted, in which the B 2nd H&A was changed to MF3 (multifamily 3). (Exhibit 4) The minimum lot size under B-2 H&A was 7,000 sq. ft. for a triplex and under MF3, the minimum lot size was 8,000 sq. ft., thus making Lot 6 non-conforming.

804 Winflo (Lot 6) is currently a vacant lot that formerly contained a single family home in poor condition. The lots to the north across the street are apartments, and the lots to the rear and south are single family homes. The owner had a feasibility study done by a local architect in which they discussed the project with nearby neighbors and then took to the City Development Assistance Center (DAC). After a four meeting which included a local builder and architect, DAC said they were ready for site plan submittal of the proposed 4-plex. The owners hired a local architect and builder to develop plans that met the zoning, compatibility and neighborhood plan requirements. In July, 2016 the completed site plan was submitted to the City. The civil plans were determined to be complete and were submitted for review. The first round of staff review comments were issued and the civil engineer submitted responses. The subsequent City staff review issued in November, 2016 added the new comment SP 1 stating that Lot 6 (804) was substandard per LDC 25-2-943 and that a Board of Adjustment variance was required.

This came as a great shock to the owners, as they had planned to move into the larger unit, have their son on one side, and rent the third unit. The owners had also invested considerable funds in engineering and architectural services. The civil engineer filed the BOA application and the owners met

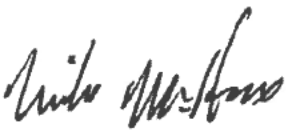
1904 Guadalupe "On the Drag" • ph: 512-481-9111 • fax: 512-481-1002 •
mchone1234@sbcglobal.net
mailing address: P.O. Box 8142, Austin, TX, 78713

with their neighbors to explain the situation. I was contacted in January, 2017 and asked to assist with the BOA case.

Article 7 (non-conforming uses) 25-2-941 was adopted to deal with conflicts resulting from the adoption of Chapter 25. The staff states that 25-2-943 (substandard lot) does not apply to Lot 6 (804 Winflo) because it was platted after March 15, 1946. However, 25-2-942 of the Land Development Code "Uses Conforming on March 1, 1984" states that if a property conformed to the zoning regulations in effect on March 1, 1984, it is a conforming lot. This means that 804 Winflo (lot 6) is a conforming lot per the code and that a triplex could be built.

In meeting with the neighbors, the owners have reported that one concern is that many of the lots in Park View subdivision are zoned MF4 multifamily and that granting this variance would create a precedent. The main argument to counter this concern is that the addition of the current zoning includes "compatibility", which makes it very difficult to redevelop any lot that has a single family use. (Exhibit 6) In the adoption of the Old West Austin neighborhood plan, the current base zoning was not changed. Concerned owners could file a zoning change to down zone this property. In an extreme case, the concerned parties could agree to file a private restrictive covenant to make sure only single family homes were allowed. Other neighborhood concerns typically are parking and potential flooding. The COA requires that site plans must meet all requirements for onsite parking and storm water control before they can be approved.

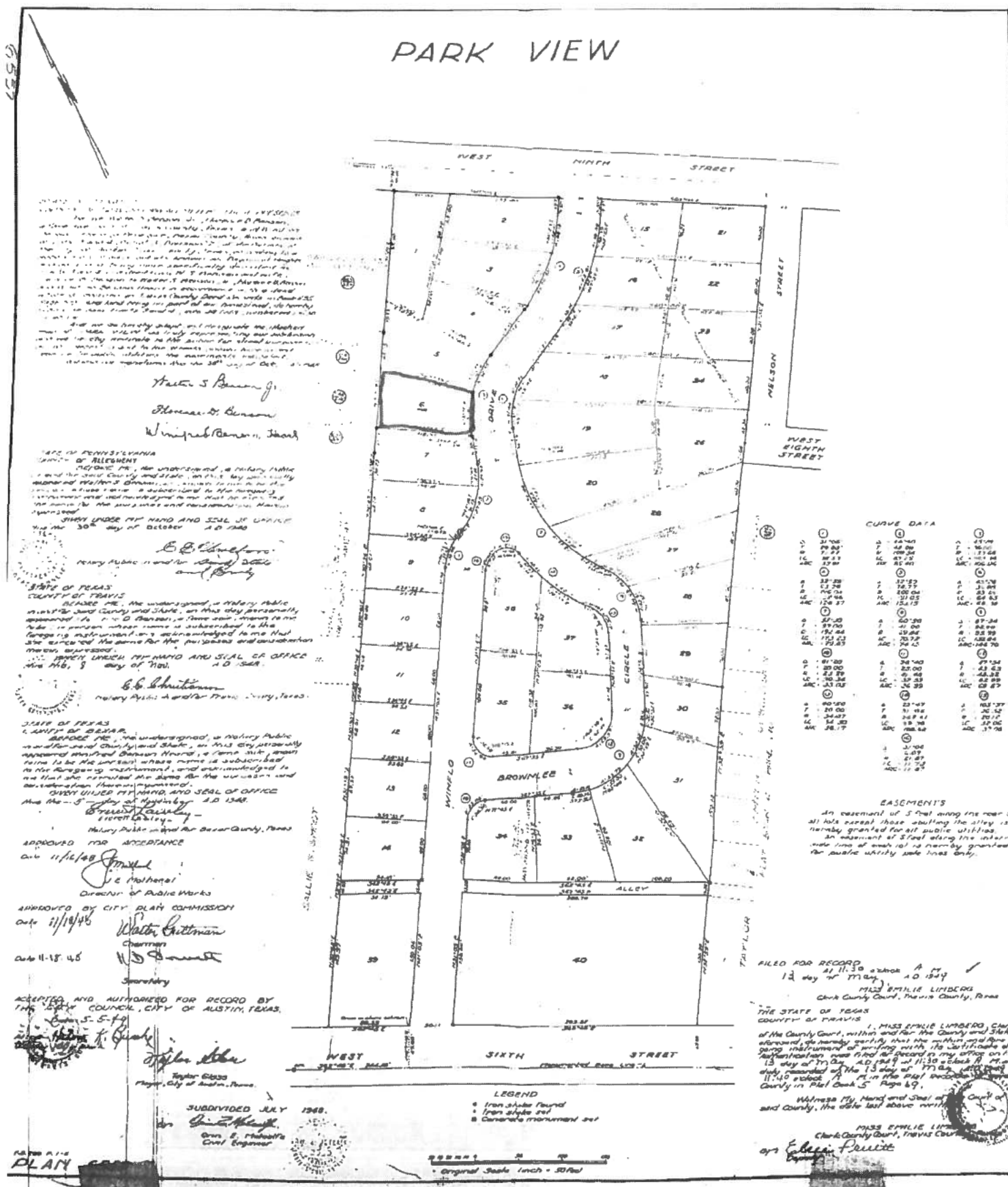
In summary, Lot 6 804 Winflo was legally platted and zoned for a triplex use by the code in force at the time it was platted. The lot has not changed. The current (Exhibit 6) strict application of the lot size requirements of the current code creates a hardship and prevents reasonable use.



Mike McHone

Ernest, Fremont
D. C. L.

5537



DEVELOPMENT PROCESS

	Development Assessment →	Zoning →	Subdivision →	Site Plan →	Building Plan →	Inspection
Regulation Review Elements	<ul style="list-style-type: none"> • Pre-Application Review • Explanation of Procedures and Requirements for all Processes • Fee Estimates • Potential Issues • Exemptions • Corrections • Land Status 	<ul style="list-style-type: none"> • Land Use Appropriateness • Development Intensity Density Height • Traffic Impact • Environmental Impact 	<ul style="list-style-type: none"> • Park Land Design Layout • Lot/Tract Size Circulation • Street Drainage/Grading • Flood Plain • Environmental Water Quality • Tree/Vegetation Habitat • Critical Features • Utilities Transmission Distribution Service 	<ul style="list-style-type: none"> • Design Intensity Density Height Setbacks • Compatibility • Transportation • Driveways • Parking/Circulation • Traffic Impact • Construction Drainage • Grading • Flood Plain • Environmental Landscaping/Tree Water Quality • Utilities (Service) • Fire (Site) 	<ul style="list-style-type: none"> • Health • Taps • Electric Service • Industrial Waste • Construction • Occupancy • Access/Exiting • Structural • Mechanical • Electrical • Plumbing • Energy • Fire • Zoning Review • Signs • Barricades • Underground Tanks 	Site & Building Plan Compliance
Notice	_____	<ul style="list-style-type: none"> • Property Owners within 300', Registered Neighborhood Organizations, Sector Groups at time of Application, and for Public Hearings • Signs Posted • Newspaper Ads 	<ul style="list-style-type: none"> • Property Owners within 300', Registered Neighborhood Organizations, Sector Groups at time of Application, and for Public Hearings (Preliminary Only) 	<ul style="list-style-type: none"> • Property Owners within 300', Registered Neighborhood Organizations, Sector Groups at time of Application, and for Public Hearings (If Any...) 	_____	_____
Approval Authority	_____	City Council	<ul style="list-style-type: none"> • Planning Commission • P & D Department Final w/o Prelim. 5-4 lots Amended Plats 	<ul style="list-style-type: none"> • P & D Department Planning Commission • Conditional Use Hill Country 	<ul style="list-style-type: none"> • Planning and Development Department 	<ul style="list-style-type: none"> • Planning and Development Department
Appeal	_____	_____	<ul style="list-style-type: none"> • Watershed Variances to City Council 	<ul style="list-style-type: none"> • Waivers to Planning Commission w/ Appeals to City Council • Planning Commission Approval Appeal to City Council 	<ul style="list-style-type: none"> • Building Official • Trade Boards • Zoning Variances to Board of Adjustment • Sign Variances to SRB 	<ul style="list-style-type: none"> • Building Official • Trade Boards
Product	Assessment Report	Zoning Ordinance	Preliminary Plan Recorded Plat	Released Site Plan	Building Permit	Certificate of Occupancy

EXHIBIT 2

L01/38

MIKE McHANE

EXHIBIT 3
PAGE 1 OF 4

ZONING ORDINANCE

CHAPTER 45

AUSTIN CITY CODE



NOVEMBER 1972

§ 45-34

AUSTIN CITY CODE

§ 45-34

	Area Per Unit	Minimum Lot Area
One-family detached unit	5,750	5,750
One-family attached unit in "A" Residence (Townhouse)*	3,500	3,500
One-family attached unit in "BB" or less restricted Use District (Townhouse)*	2,500	2,500
Two-family unit	3,500	7,000
Three-family unit	2,667	8,000

<u>Apartment House or Apartment Hotel</u>					
Use	1	Each Additional	Hotel or Motel Unit	Dormitory	
District	Efficiency Bedroom	Bedroom		Unit (per person)	
BB	1,600	1,800	200	1,600*	200*
B, O, LR & GR	800	950	150	800	150
C, C-2, DL*, D & E	650	700	100	650	150

* See provisions concerning use in appropriate use district regulations. The minimum lot area requirements for apartment, apartment hotels, hotels, or motels and dormitories shall be:

BB	8,000
B or less restricted (6-20-68.)	6,000

(c) Business and industrial buildings:

(1) YARDS:

A. Front and side streets. All buildings shall be set back from the front street at least twenty-five feet for the building line, and shall be set back from the side street at least ten feet for the building line, and the requirements of subsection (k) of section 45-33 shall also apply for buildings constructed on any property in an "O" office district or less restricted district when immediately adjoining property in a "B" residence district or more restricted district.

§ 45-35

ZONING

§ 45-35

b. Side yard and rear yard. No side yard shall be required, but if a side yard be provided it shall have a minimum width of three feet. The minimum depth of rear yards shall be five feet.

c. Coverage. The combined area of the side yards and the rear yard shall be not less than forty-five percent of the total area of the lot behind and to the rear of the front setback lines.

d. Accessory buildings. An accessory building shall observe the same regulations as prescribed for the principal building.

(2) LOT AREA. All lots for business and industrial buildings shall conform to the requirements of chapter 41. (7-17-41; Ord. No. 680620-I, pts. 3, 4,; Ord. No. 681121-B, pts. 8, 9.)

Sec. 45-35. SAME--SECOND HEIGHT AND AREA DISTRICT.

In the second height and area district, for buildings erected or structurally altered, the height of buildings, the minimum dimensions of yards and courts and the minimum lot and lot area per family shall be as follows:

(a) General provisions:

(1) HEIGHT. No building shall exceed sixty feet in height.

(2) COURTS. The least dimension of an inner court shall be not less than six feet, nor less than two and one-half inches for each foot of height of such court, nor shall its area be less than twice the square of its required least dimension.

(3) OFF-STREET PARKING. Space for off-street parking shall be provided as described in section 45-30.

(4) USES SUBJECT TO CONDITIONS. Where uses enumerated in any use district are conditioned upon special height, yard, open space or coverage requirements, and are to be constructed in a second height and area district, the special requirements shall apply unless the requirements of this district are more restrictive.

(b) Residential buildings:

(1) YARDS:

a. Front and side streets. Except as provided in subsection (d) of this section, all buildings shall set back from the front street twenty-five feet for the building line, and the front line of any porch shall set back from the front street fifteen feet; buildings shall set back from the side street ten feet for the building line, and porches shall set back from the side street four feet.

b. Side yard and rear yard. There shall be a rear yard, and a side yard on each side of the building. A rear

L01/41
3/
404

§ 45-35

AUSTIN CITY CODE

§ 45-35

yard shall be not less than five feet in depth, and the total width of side yards shall be not less than thirty percent of the total width of the lot; except that the total width of side yards shall not be required to be more than fifteen feet, and that the least side yard shall be not less than five feet wide; provided, however, that in "A" and less restricted use districts where a lot is sixty feet or less in width at the building line thereof, the total width of side yards shall be not less than ten feet and each side yard shall be not less than five feet in width. (Ord. No. 700402-E.)

c. Coverage. The combined area of the rear yard and the side yards shall be not less than forty-five percent of the total area of the lot behind and to the rear of the front setback lines.

d. Accessory buildings. A private garage, private stable, poultry shed, storage room or other accessory buildings, where the principal use is a dwelling, shall be so located and placed on a lot that no part thereof shall be a lesser distance from the front property line than seventy-five percent of the mean depth of the lot measured from the front property line to the rear property line; provided, that in no case shall the distance from the front property line be required to be greater than ninety feet, and a setback line for any such accessory building of not less than twenty feet from any side street line, and twenty-five feet from any rear street line on through lots; that on both sides of and parallel to any side street, the setback distance from the side street for any such accessory building shall be not less than ten feet; and that in no case shall the building be less than five feet from any property line.

(2) Area per unit and minimum lot area. In the second height and area district, the area per dwelling unit, hotel or motel unit and person per dormitory unit, and the minimum lot area, in square feet, shall be in conformity with the minimum requirements as specified in the following schedule and provisions:

	Area Per Unit	Minimum Lot Area
One-family detached unit	5,750	5,750
One-family attached unit in "A" residence (Town house)*	3,500	3,500
One-family attached unit in "BB" or less restricted use district (Town house)*	2,500	2,500
Two-family unit	3,000	6,000
Three-family unit	2,334	7,000

SUMMARY OF CURRENT & PROPOSED ZONING

This is a summary of Permitted Uses in the Current and Proposed zoning ordinances. Locate the current zoning in the left-hand column. Then follow the arrow across to the right-hand column to find the proposed zoning. Only examples of permitted uses have been listed. Conditional uses which require additional review are not listed. Please refer to the appropriate zoning ordinance for additional uses and requirements. Explanatory notes at bottom of last page.

CURRENT ZONING		PROPOSED ZONING
LA LAKE AUSTIN RESIDENCE (all H&A districts) Single Family Dwelling. (Min. Lot: 1 acre)	→	LA LAKE AUSTIN RESIDENCE DISTRICT Height: 35 ft. Single Family Dwelling. (Min. Lot: 1 acre)
SR SUBURBAN RESIDENCE (1st H&A) Single Family Dwelling. (Min. Lot: 1 acre)	→	RR RURAL RESIDENCE DISTRICT Height: 35 feet. Single Family Dwelling. (Min. Lot: 1 acre)
NO EQUIVALENT IN CURRENT ZONING ORDINANCE	→	SF-1 SINGLE FAMILY RESIDENCE (LARGE LOT) Hgt: 35 ft. Single Family Dwelling. (Min. Lot: 10,000 sq. ft.)
AA RESIDENCE (1st H&A, 2nd H&A) Single Family Dwelling. (Min. Lot: 5,750 sq. ft.)	→	SF-2 SINGLE FAMILY RESIDENCE (STD. LOT) Hgt. 35 ft.) Single Family Dwelling. (Min. Lot: 5,750 sq. ft.)
A RESIDENCE (all H&A districts) Any use permitted in "AA", Single Family Dwelling, Duplex. (Min. Lot: 5,750 sq. ft.)	→	SF-3 FAMILY RESIDENCE Height: 35 ft. Single Family Dwelling, Duplex (Min. Lot: 5,750 sq. ft.)
NO EQUIVALENT IN CURRENT ZONING ORDINANCE	→	SF-4 SINGLE FAMILY RESIDENCE (SMALL LOT) Hgt. 35 ft. Single Family Dwelling (Min. Lot: 3,600 sq. ft.)
NO EQUIVALENT IN CURRENT ZONING ORDINANCE	→	SF-5 URBAN FAMILY RESIDENCE Height: 35 ft. Single Family Dwelling, Duplex, Townhouses, and Condominiums. (Min. Lot: 5,750 sq. ft.)
A-2 CONDOMINIUM RESIDENCE (1st H&A) Any use permitted in "A" and Condominiums. (Min. Lot: 14,000 sq. ft.)	→	SF-6 TOWNHOUSE AND CONDOMINIUM RESIDENCE Hgt: 35 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Condominiums. (Min. Lot: 5,750 sq. ft.)
NO EQUIVALENT IN CURRENT ZONING ORDINANCE	→	MF-1 MULTI-FAMILY RESIDENCE (LMT'D DENSITY) Hgt: 40 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Apts. Up to 17 U.P.A. (Min. Lot: 8,000 sq. ft.)
BB RESIDENCE (1st H&A, 6th H&A) Any use permitted in "A", Apartments, 22-27 U.P.A.	→	MF-2 MULTI-FAMILY RESIDENCE (LOW DENSITY) Hgt: 40 ft. Single-Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Apts. Up to 23 U.P.A. (Min. Lot: 8,000 sq. ft.)
BB RESIDENCE (2nd H&A, 5th H&A) Any use permitted in "A", Apartments, 29-36 U.P.A.	→	MF-3 MULTI-FAMILY RESIDENCE (MED. DENSITY) Hgt: 40 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Apts. Up to 36 U.P.A. (Min. Lot: 8,000 sq. ft.)
B RESIDENCE (1st H&A) Any use permitted in "BB", Apartments, 54-67 U.P.A.		
BB RESIDENCE (3rd H&A) Any use permitted in "A", Apartments, 40-54 U.P.A.		
B RESIDENCE (6th H&A) 40-54 U.P.A. (2nd, 5th H&A) 54-67 U.P.A. Any use permitted in "BB", Apartments.	→	MF-4 MULTI-FAMILY RESIDENCE (MOD.-HIGH DENSITY) Hgt: 60 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses Apts. Up to 54 U.P.A. (Min. Lot: 8,000 sq. ft.)
BB RESIDENCE (4th H&A) Any use permitted in "A", Apartments, 54-67 U.P.A.		
B RESIDENCE (3rd H&A) 72-96 U.P.A. RESIDENCE (4th H&A) 87-116 U.P.A. Any use permitted in "BB", Apartments	→	MF-5 MULTI-FAMILY RESIDENCE (HIGH DENSITY) Hgt: 50 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Apts. Up to 54 U.P.A. (Min. Lot: 8,000 sq. ft.)
NO EQUIVALENT IN CURRENT ZONING ORDINANCE	→	MF-6 MULTI-FAMILY RESIDENCE (HIGHEST DENSITY) Hgt: 90 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Apts. Unlimited Density. (Min. Lot: 8,000 sq. ft.)
MH MOBILE HOME (1st H&A)	→	MH MOBILE HOME RESIDENCE Height: 35 ft. Mobile Home Residential

25-2-923 DETERMINATIONS.

The building official may permit a temporary use determining that the temporary use:

- (1) will not impair the normal, safe, and effective operation of a permanent use on the same site;
- (2) will be compatible with nearby uses;
- (3) will not adversely affect public health, safety, or convenience;
- (4) will not create a traffic hazard or congestion; and
- (5) will not interrupt or interfere with the normal conduct of uses and activities in the vicinity.

Source: Section 13-2-323; Ord. 990225-70; Ord. 031211-11.

25-2-924 CONDITIONS OF APPROVAL.

The building official may condition the approval of a temporary use on compliance with additional requirements that the building official determines are necessary to ensure land use compatibility and minimize adverse effects on nearby uses, including requirements for hours of operation, frequency of use, parking, traffic circulation, screening, enclosure, site restoration, and cleanup.

Source: Section 13-2-322(b); Ord. 990225-70; Ord. 031211-11.

25-2-925 SITE RESTORATION.

On termination of a temporary use, the person operating the temporary use shall remove all debris, waste, and other evidence of the use from the site.

Source: Section 13-2-322(a); Ord. 990225-70; Ord. 031211-11.

ARTICLE 7. NONCONFORMING USES.

§ 25-2-941 NONCONFORMING USE DEFINED.

NONCONFORMING USE means a land use that does not conform to current use regulations, but did conform to the use regulations in effect at the time the use was established.

Source: Section 13-2-331; Ord. 990225-70; Ord. 031211-11.

§ 25-2-942 USES CONFORMING ON MARCH 1, 1984.

The use of a building, structure, or property that conformed with the zoning regulations in effect on March 1, 1984 is a conforming use notwithstanding the requirements of this chapter.

Source: Section 13-2-340; Ord. 990225-70; Ord. 031211-11.

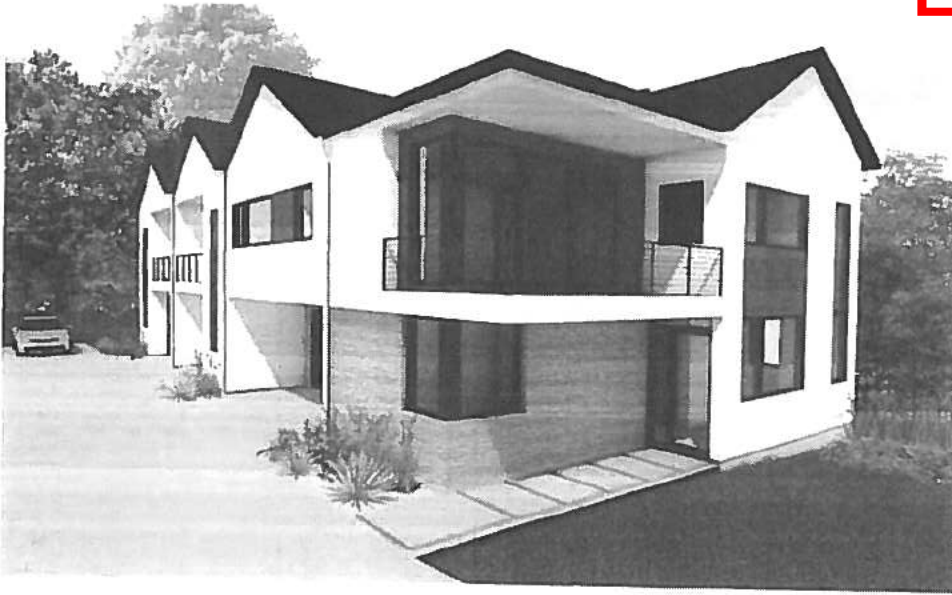
§ 25-2-943 SUBSTANDARD LOT.

- (A) A substandard lot may be used for a nonresidential use that is permitted in the zoning district in which the lot is located if, except for minimum lot area, the use and development complies with the requirements of this title.
- (B) A substandard lot may be used for a single-family residential use if the use is permitted in the zoning district in which the lot is located and the lot complies with the requirements of this subsection.

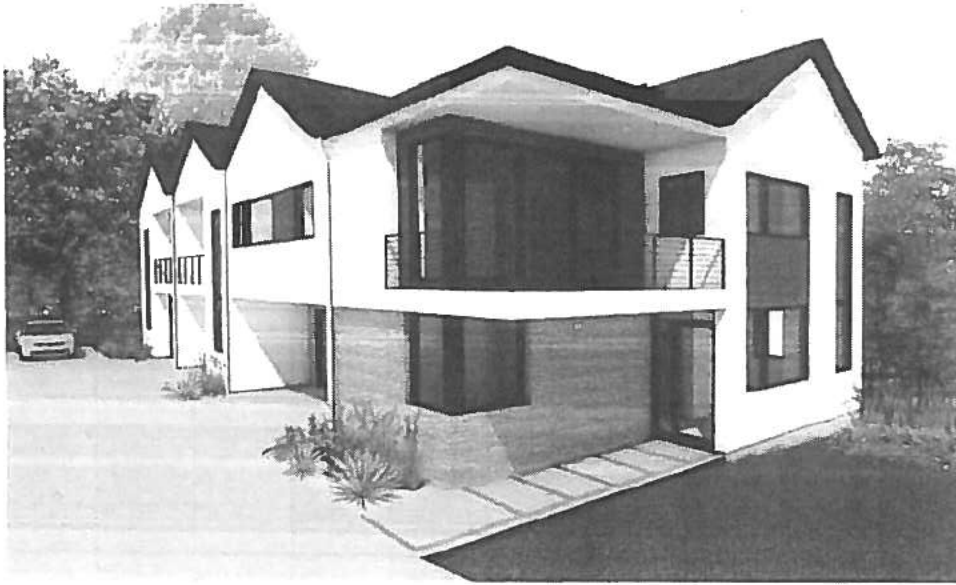
- (1) A substandard lot recorded in the county real property records before March 15, 1946 must:

- (a) have an area of not less than 4,000 square feet; and
- (b) be not less than 33 feet wide at the street or at the building line, or

surveystars 



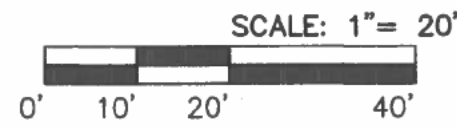
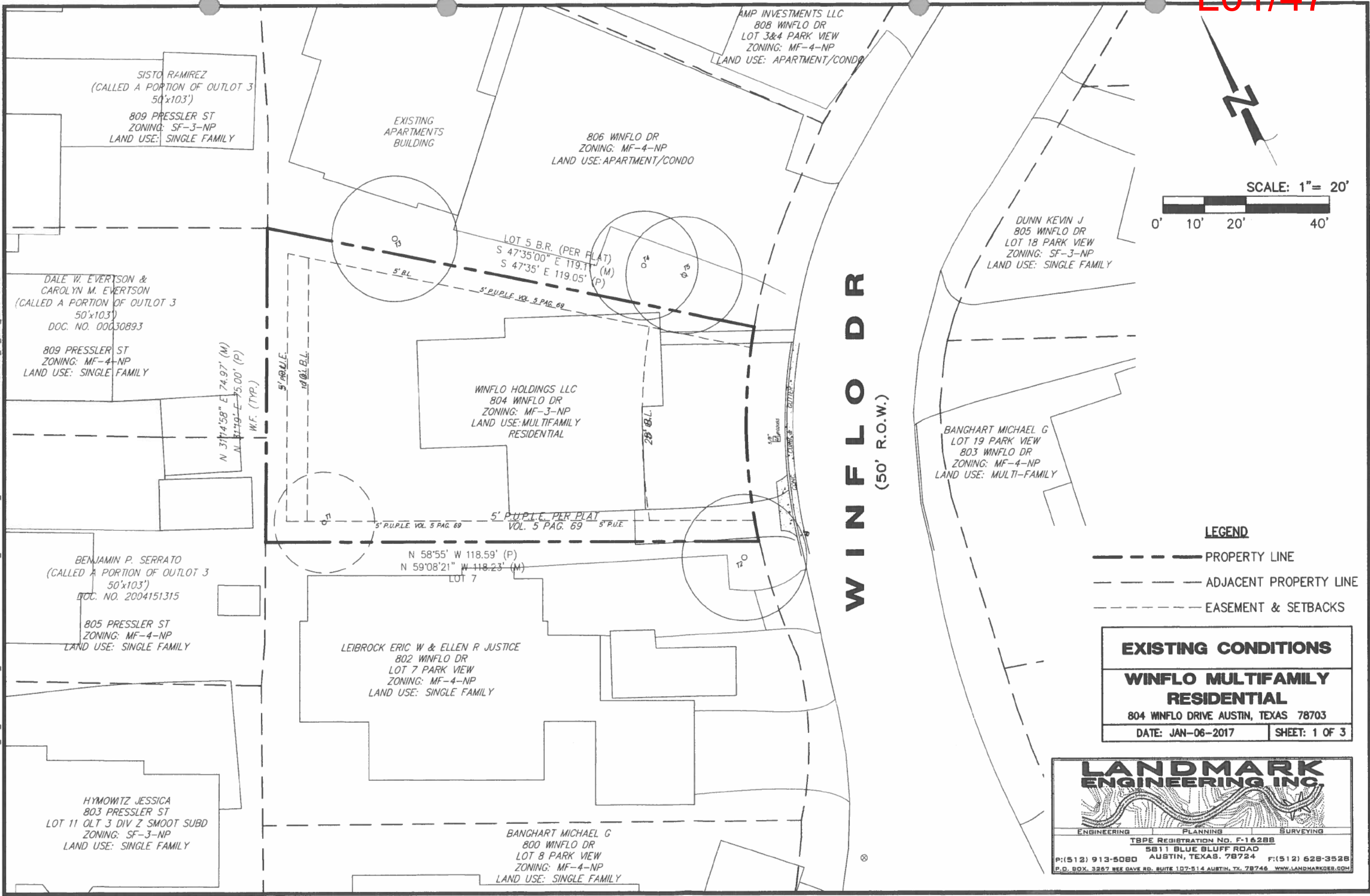
804 Winflo Drive
Patti and Greg Schaub
schaubtex@aol.com
(512) 695-5486



804 Winflo Drive
Patti and Greg Schaub
schaubtex@aol.com
(512) 695-5486

PROPOSED
TRI-POK

PLOT DATE: Friday, January 06, 2017 12:33:56 PM
FILE NAME: P:\LEI_PROJECTS\132_NEW LINE CONSTRUCTION\02_804 WINFLO\01_CDDIGDATA\PRESENTATION\132.02.01_01_EXH_EXIST.DWG



- LEGEND**
- — — — — PROPERTY LINE
 - - - - - ADJACENT PROPERTY LINE
 - . - . - . EASEMENT & SETBACKS

EXISTING CONDITIONS

WINFLO MULTIFAMILY RESIDENTIAL

804 WINFLO DRIVE AUSTIN, TEXAS 78703

DATE: JAN-06-2017 SHEET: 1 OF 3

LANDMARK ENGINEERING INC.

ENGINEERING PLANNING SURVEYING

TBPE REGISTRATION NO. F-16288

5811 BLUE BLUFF ROAD
AUSTIN, TEXAS 78724

P: (512) 913-5080 F: (512) 628-3528

P.O. BOX 3267 REE DAVE RD. SUITE 107-514 AUSTIN, TX 78746 WWW.LANDMARKENG.COM

PLOT DATE: Friday, January 06, 2017 12:34:45 PM
FILE NAME: P:\LEI_PROJECTS\132_NEW LINE CONSTRUCTION\02_804 WINFLO\01_CDDIGDATA\PRESENTATION\132.02.01_02_EXH_PROP.DWG

